IN THE DISTRICT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION

CLEVELAND TURNER, AIS #223563,))
Plaintiff,))
V.) CIVIL ACTION NO. 2:05-CV-42-MHT
JAMES DELOACH, et al.,))
Defendants.	,)

ORDER

The Magistrate Judge filed a Recommendation (Doc. # 17) to which no timely objections have been filed. Upon an independent and de novo review of the file in this case and upon consideration of the Recommendation of the Magistrate Judge, it is ORDERED that:

- 1. The Recommendation is ADOPTED;
- 2. The motion for summary judgment filed on behalf of defendant James DeLoach (Doc. # 8) is GRANTED and the claims lodged against this defendant are DISMISSED with prejudice;
- 3. Defendant DeLoach is DISMISSED as a party to this cause of action;
- 4. The motion for summary judgment with respect to the excessive force claim (Doc. #8) against defendants Marvin Thomas and Virgil Smiley is DENIED; and
- 5. The plaintiff's excessive force claim against defendants Thomas and Smiley is to be set for a jury trial.

DONE, this the 9th day of July, 2007.

/s/ Myron H. Thompson UNITED STATES DISTRICT JUDGE